

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**LAKISHA SIMMONS AND  
CHRIS SIMMONS,**

**Plaintiffs,**

**vs.**

**COUNTRYWIDE HOME LOANS,  
BANK OF AMERICA HOME LOANS,  
BAC HOME LOANS SERVICING,  
AND JOHN DOE 1 THROUGH 10,  
INDEPENDENTLY,**

**Defendants.**

**CASE NO. 3:09-00766  
JUDGE CAMPBELL/KNOWLES**

**REPORT AND RECOMMENDATION**

This matter is before the Court upon Defendants’ “Motion to Dismiss” (Docket No. 15), and supporting Memorandum (Docket No. 16). Plaintiffs have filed a Response headed “Objection to the Motion to Dismiss.” Docket No. 17.

The instant action is identical to an earlier-removed case pending in this Court, *Lakisha and Chris Simmons v. Countrywide Home Loans, et al*, No. 3:09-00621. For whatever reason, Plaintiffs filed two identical actions in the Chancery Court for Davidson County, Tennessee, on June 5, 2009. (Chancery Court Case Nos. 09-1096-II and 09-1098-II). Defendants subsequently removed both cases to this Court, and they were assigned Case Nos. 3:09-621 and 3:09-766 respectively. Thereafter, Plaintiffs filed virtually identical documents in both cases headed

“Amended Complaint for Injunctive and Other Relief.”<sup>1</sup>

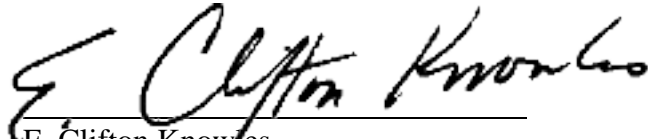
Defendants subsequently filed the instant Motion to Dismiss and supporting Memorandum, which are essentially identical to the Motion to Dismiss and supporting Memorandum filed in the earlier-removed case. Plaintiffs’ “Objection,” filed in both cases is also essentially identical.

The undersigned has previously submitted a Report and Recommendation recommending that Defendants’ Motion to Dismiss the earlier-removed case be granted. Docket Entry No. 18 in Case No. 3:09-621. For the reasons set forth in that Report and Recommendation, the undersigned recommends that the instant Motion to Dismiss (Docket No. 15) be GRANTED, and that the instant action be DISMISSED WITH PREJUDICE.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days after service of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have fourteen (14) days after service of any objections filed to this Report in which to file any response to said objections. Failure to file specific objections within fourteen (14) days of service of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *See Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L. Ed. 2d 435 (1985), *reh’g denied*, 474 U.S. 1111 (1986); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72.

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<sup>1</sup> While there are variations in the amounts of damages set forth and claimed in the two Amended Complaints, this fact is not material to a resolution of the issues before the Court.



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E. Clifton Knowles  
United States Magistrate Judge